



Washington State Executive Ethics Board

2425 Bristol Court SW • PO Box 40149 • OLYMPIA WA 98504-0149

(360) 664-0871 • Fax (360) 586-3955 • <http://www.ethics.wa.gov>

PRELIMINARY INVESTIGATION AND BOARD DETERMINATION

CASE NUMBER: 2011-018
DATE: January 13, 2012
RESPONDENTS: Artee Young, Executive Director
EMPLOYING AGENCY: The Evergreen State College – Tacoma Campus

I. INVESTIGATION

A. Background and Summary of Complaint

On May 12, 2011, the Executive Ethics Board (Board) received a complaint alleging that Artee Young, Executive Director of The Evergreen State College (TESC) Tacoma Campus, may have violated the Ethics in Public Service Act by providing special privileges to non-profit groups unrelated to the college by allowing them the use of the facilities to conduct their monthly meetings and by using college resources for personal gain:

B. Scope of Preliminary Investigation and Relevant Facts

Board staff reviewed the complaint, documents from the agency, a computer analysis report of Ms. Young's computer hard drive, and interviews from the President of TESC Thomas Purce, Ms. Young's staff; Olga Ingelbritsson, Marla German, Dan Clarke, and Ruth Hanson. Based upon the preliminary investigation, the facts appear to be as follows:

1. Artee Young was appointed to Executive Director of the Tacoma Campus of TESC in 2007 and has held that position for all times pertinent to this investigation.
2. A review of Ms. Young's computer hard drive, internet use, and emails revealed that Ms. Young used the state computer, internet, and email for personal use during the past 24 months ending on August 8, 2011.
3. An analysis of the information obtained from Ms. Young's computer hard drive revealed that her college email account contained several personal emails sent/received by Ms. Young during the time frame listed above. These e-mails were short in length and infrequent, to be characterized as *de minimis*.
4. In Ms. Young's response to the allegations she wrote, "I maintain an AOL account for my personal use in accordance with separating my state work and personal use. I am sure there are some rare occasions when I have accessed the AOL email from work."

5. An analysis of the information obtained from Ms. Young's computer hard drive revealed Ms. Young visited internet websites and performed internet searches that did not relate to her official duties at TESC and had a shortcut on her desktop to her AOL mail account which she accessed frequently. A sampling of Ms. Young's inappropriate internet use from June and July 2011 include:
 - Redfin.com - real estate search 5 in June and 88 in July.
 - Luxuryportfolio.com – 16 times in June.
 - Johnlscott.com – 2 times in June.
 - AOL.com and AOL mail– 179 times.
 - Face Book – 28 in July and 5 in June.
 - Ebay.com – 8 times in July.
 - Financial website – 7 times.
 - Magazine sites unrelated to college – 21 times
 - News articles about Congressman Weiner.
6. The college provided a copy of Ms. Young's detailed cell phone record for March 25, 2010 to June 24, 2011. In the December 25 to January 24 billing period, Ms. Young upgraded her phone plan to include unlimited anytime minutes. This upgrade increased the cost of Ms. Young's phone plan from \$84.00/month to \$128.26/month.
7. An analysis of Ms. Young's detailed phone records indicated that Ms. Young used her state issued cell phone often to make personal phone calls.
8. Three personal phone numbers were identified as belonging to Ms. Young's son, a friend in Mississippi and her personal residence. While there were several other numbers identified as personal, these were the most frequently called and used the most minutes.
9. In the August 25 to September 24, 2010 billing cycle Ms. Young called or received calls from four personal numbers which accounted for 31.28% of the total minutes used at an additional cost of \$134.10.
10. In the September 25 to October 24, billing cycle Ms. Young called or received calls from three personal numbers which accounted for 26.56% of the total minutes used at an additional cost of \$108.90.
11. In the October 25 to November 24, billing cycle Ms. Young called or received calls from five personal numbers which accounted for 37.4% of the total minutes used at an additional cost of \$210.60.
12. In the November 25 to December 24, billing cycle Ms. Young called or received calls from seven personal numbers which accounted for 46.34% of the total minutes used at an additional cost of \$316.80.

13. In the middle of the December 24, 2010 to January 25, 2011 billing cycle Ms. Young changed her phone plan to include unlimited anytime minutes. This increased the cost from the previous plan from \$84.00/month to \$128.26/month.
14. Even after the upgrade to unlimited anytime minutes it appears that three personal numbers continue to be the most frequently used.
15. There was no evidence uncovered to indicate that Ms. Young used the copier located at TESC to make copies for any of the non-profit groups mentioned in the complaint.
16. Ms. Young was appointed to the Executive Director position in 2007. Prior to her being appointed the non-profit group, "The Conversation" had been given permission by Provost Don Bantz to use the facility. Ms. Young did not see any reason to discontinue allowing the group to use the facility.
17. TESC routinely allows outside non-profit groups to utilize the campus facility to conduct meetings. There is never a cost for the use. Prior to using the facility, all non-profit groups are instructed that they are required to bring their own supplies and must clean the facility prior to leaving.

II. APPLICABLE LAW AND ANALYSIS

The Ethics in Public Service Act prohibits a state employee from using their position to secure special privileges or exemptions. RCW 42.52.070 states:

Except as required to perform duties within the scope of employment, no state officer of state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

No evidence was found to indicate that Ms. Young used her position to provide any of the non-profit groups with a special privilege by allowing them to use the campus facilities to conduct meetings. The campus routinely allows non-profit groups the use of the facility to conduct meetings and there is never a cost to these groups.

The Ethics in Public Service Act prohibits a state employee from using state property for private use. RCW 42.52.160 states:

No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

The Ethics in Public Service Act allows for *de minimis* personal use of state resources. WAC 292-110-010 states that employees may make occasional but limited personal use of state resources if the use conforms with ethical standards. Those standards include that the use is of little or no cost to the state, brief in duration and frequency, does not disrupt other state employees and does not obligate them to make a personal use of state resources. Ms. Young's use of state resources went well beyond the *de minimis* standard.

III. RECOMMENDATION

WAC 292-100-050(2) provides that upon receipt of the board staff's investigation report and recommendation, the board shall determine whether or not there is reasonable cause to believe that a violation of chapter 42.52 RCW has occurred.

1. RCW 42.52.070 - No evidence was found to indicate that any of the non-profit groups mentioned in the complaint received a special privilege from Ms. Young by being allowed to use the campus facility to conduct meeting.

Therefore, Board staff recommends that the Board find *no reasonable cause* that a violation of RCW 42.52.070 occurred.

2. RCW 42.52.160 - That there is evidence to indicate the Ms. Young used her state assigned cell phone and computer to conduct personal business, which goes well beyond the *de minimis* standard.

Therefore, Board staff recommends that the Board find *reasonable cause* to believe that a violation of the Ethics in Public Service Act occurred and the amount of the civil penalty is greater than \$500.



Melanie de Leon, Executive Director
Executive Ethics Board

IV. DETERMINATION

Based upon the above analysis and conclusions, and pursuant to RCW 42.52.420, we, the State of Washington Executive Ethics Board, determine the following:

Dismissal

- ☐ Any violation that may have occurred is not within the jurisdiction of the Board.
- ☐ The Complaint is obviously unfounded or frivolous
- ☐ Any violation that may have occurred does not constitute a material violation because it was:
 - ☐ Inadvertent and Minor
 - ☐ Cured

Reasonable Cause Determinations

1. Reasonable Cause regarding providing a special privilege (RCW 42.52.070):

- ☐ There IS reasonable cause to believe that a violation of the Ethics in Public Service Act has been or is being committed.
- ☒ There IS NOT reasonable cause to believe that a violation of the Ethics in Public Service Act has been or is being committed.

2. Reasonable Cause regarding the use of state resources for personal benefit and/or gain (RCW 42.52.160)

- ☒ There IS reasonable cause to believe that a violation of the Ethics in Public Service Act has been committed.
- ☐ There IS NOT reasonable cause to believe that a violation of the Ethics in Public Service Act has been or is being committed.

V. POTENTIAL PENALTY

- ☒ We believe that one or more violations of RCW 42.52 may have occurred, and the penalty may be MORE THAN \$500.00.

_____ We believe that one of more violations of RCW 42.52 may have occurred, and the penalty may be LESS THAN \$500.00.

VI. CONCLUSION

_____ This matter is hereby dismissed based upon the Dismissal Determination found above.

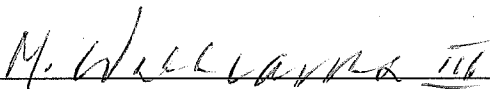
✓ _____ Upon finding there IS reasonable cause to believe that violation(s) of RCW 42.52 have occurred, IT IS HEREBY ORDERED that the Executive Director of the Board schedule a public hearing on the merits of the complaint.


_____ Upon finding there IS reasonable cause to believe that violation(s) of RCW 42.52 have occurred, the facts are undisputed, the violations appear to be relatively minor in nature, and the penalty and costs no greater than \$500 will be assessed for the violations, IT IS HEREBY ORDERED that the Executive Director of the Board schedule a brief adjudicative proceeding under WAC 292-100-190 on the merits of the complaint.

_____ Upon finding there IS reasonable cause to believe that violation(s) of RCW 42.52 have occurred, IT IS HEREBY ORDERED that the Board shall issue a Letter of Instruction in lieu of a monetary penalty.

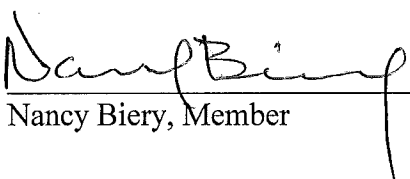
_____ Upon finding there IS NOT reasonable cause to believe that violation(s) of RCW 42.52 have occurred, IT IS HEREBY ORDERED that the complaint is CLOSED.

DATED this 13th day of January, 2012.


Matthew Williams III, Chair


Lisa Marsh, Vice-Chair


Linnaea Jablonski, Member


Nancy Biery, Member